

Board (Board), obtaining refunds, and other miscellaneous provisions.

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This rule amends the Order and Rules and Regulations (7 CFR part 1220). The Order and regulations are effective under the Soybean Promotion, Research, and Consumer Information Act (Act).

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the

changes are primarily to remove obsolete and duplicate material and to correct an administrative error.

Paperwork Reduction

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1220 have been previously approved by OMB and assigned OMB Control No. 0581-0093 under the Paperwork Reduction Act of 1980.

No additional recordkeeping requirements are imposed as a result of this rule.

Background and Proposed Changes

A review of the Order and regulations was conducted in response to the President's Regulatory Review Initiative of March 4, 1995. As a result, a number of paragraphs were identified that could be removed without adverse impact to the program. The amendments eliminate sections which are duplicative or obsolete or will avoid conflicting information.

Sections which are obsolete or are duplicated in other sections involve initial membership on the Board (§ 1220.500-560) and authority for three temporary members on the initial Board (§ 1220.201(f)).

Other sections (§ 1220.224, 225, 226, 227, and § 1220.330 and 331) originally implemented a statutory provision allowing producers to request refunds prior to and after the continuance referendum. These sections became obsolete after a February 1994 referendum in which producers voted in favor of mandatory assessments based on 10 percent escrowed assessments paid at the end of each State's fiscal year.

In July 1995, producers were provided the opportunity to request a refund referendum to determine whether refunds (at 10 percent of escrowed funds) should continue. The number of producers required to cause a referendum to be conducted did not sign the poll. Therefore, a referendum will not be held and refunds were eliminated as of October 1, 1995. Provisions for establishing escrow accounts (§ 1220.212(j); § 1220.228(a)(1)(v) through (vi); and § 1220.228(b)(5)(i) through (6)(iii)) are no longer applicable and should be removed, the sections they pertain to are: Continuance referendum (§ 1220.106); Producer poll (§ 1220.120); and Refund referendum (§ 1220.124).

In addition, § 1220.312(b) has been revised to move Virginia from the monthly column to the quarterly column to correct an error.

After consideration of all relevant material with regard to the termination

of the provisions as hereinafter set forth, it is found that these provisions no longer tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to implementing this action because: (1) The sections being removed are either duplicative or obsolete and removal will not alter any aspect of the program; and (2) changing the status of Virginia from monthly to quarterly for remittance of assessments is an action to correct an error that will not affect program implementation.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1220 is amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301-6311.

§§ 1220.106, 1220.120, 1220.124, 1220.224-1220.227 [Removed and reserved]; §§ 1220.201, 1220.212 and 1220.228 [Amended]

2. In part 1220, §§ 1220.106, 1220.120, 1220.124, 1220.201(f), 1220.212(j), 1220.224 through 1220.227, 1220.228(a)(1)(v) and (vi), 1220.228(b)(5)(i) and (b)(6)(iii) are removed and reserved.

§ 1220.312 [Amended]

3. Section 1220.312 is amended in paragraph (b) by removing the word "Virginia" in the Monthly column and adding the word "Virginia" in the Quarterly column, in alphabetical order, immediately following the word South Dakota.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

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7 CFR Part 1230**[No. LS-95-013]****Technical Amendments to the Pork Promotion, Research, and Consumer Information Order and Rules and Regulations****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule and Termination Order.

SUMMARY: A review of the Pork Promotion, Research, and Consumer Information Order (Order) and rules and regulations implementing the pork promotion and research program identified a number of changes to eliminate sections which are duplicative or obsolete and will avoid current and future conflict. The revisions eliminate certain sections dealing with membership on the National Pork Producers Delegate Body (Delegate Body), obtaining refunds, and other miscellaneous provisions.

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, Room 2606-S, Livestock and Seed Division, AMS, USDA, PO Box 96456, Washington, DC 20090-6456; telephone 202/720-1115.

SUPPLEMENTARY INFORMATION: This rule amends the Order and Rules and Regulations (7 CFR part 1230). The Order and regulations are effective under the Pork Promotion, Research, and Consumer Information Act (Act).

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation

imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the changes are primarily to remove obsolete and duplicate material.

Paperwork Reduction

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1230 have been previously approved by OMB and assigned OMB Control No. 0581-0093 under the Paperwork Reduction Act of 1980.

No additional recordkeeping requirements are imposed as a result of this rule.

Background and Proposed Changes

A review of the Order and regulations was conducted in response to the President's Regulatory Review Initiative of March 4, 1995. As a result, a number of paragraphs were identified that could be removed without adverse impact to the program. The amendments eliminate sections which are duplicative or obsolete.

Sections which are obsolete or are duplicated in other sections involve initial membership on the Delegate Body and the Board (§ 1230.30; § 1230.31; and §§ 1230.501-.512).

Other sections (§ 1230.72 and § 1230.77) originally implemented a statutory provision allowing producers to request refunds prior to the referendum. These sections became obsolete after a May 1988 referendum in which producers voted in favor of mandatory assessments.

After consideration of all relevant material with regard to the termination of the provisions hereinafter set forth, it is found that these provisions no longer tend to effectuate the declared policy of the Act.

Pursuant to 7 U.S.C. 553, it is also found and determined that upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or engage in further public procedure prior to implementing this action because the sections being removed are either duplicative or obsolete and removal will not alter any aspect of the program.

List of Subjects in 7 CFR Part 1230

Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1230 is amended as follows:

PART 1230—[AMENDED]

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801-4819.

§ 1230.30 [Amended]

2. In § 1230.30, paragraphs (b)(2) and (c)(2) are removed and reserved and in paragraphs (b)(3) and (c)(3) the word "thereafter" is removed.

§ 1230.31 [Amended]

3. In § 1230.31, paragraph (a) is removed and reserved and the first three words "for each subsequent" and the comma "," after Body of paragraph (b) are removed.

§ 1230.72 [Amended]

4. In § 1230.72, paragraph (a) in the second sentence the words "less the amount of refunds paid to producers in that State" are removed and in paragraph (b) in the first sentence the words "and to which no refund was received" are removed.

§ 1230.77 [Removed and reserved]

5. Section 1230.77 is removed and reserved.

§§ 1230.501-1230.512 [Removed and Reserved]

6. Sections 1230.501 through 1230.512 are removed and reserved.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

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